

web. In accordance with 37 CFR § 1.143, Applicant makes a provisional election of Species A (claims 1-21), with traverse. However, favorable reconsideration and withdrawal of both restrictions are respectfully requested in view of the following remarks.

As previously noted in the Response to the first Restriction Requirement, the subject application is a 35 U.S.C. § 371 national stage application of International Application No. PCT/US98/21378. Accordingly, the Examiner must show that the groups of inventions as set forth above lack unity and do not relate to a single general inventive concept as set forth in Rule 13 of the Patent Cooperation Treaty (PCT). Rule 13.1 of the PCT requires an application to relate to one invention only or to a group of inventions so linked as to form a single inventive concept, i.e., a unity of invention. Rule 13.2 of the PCT sets forth that, when a group of inventions is claimed in one application, PCT Rule 13.1 is fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding technical features.

As the Examiner correctly noted in the present restriction requirement, Rule 13.2 of the PCT further defines "special technical features" as "those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." (Emphasis added) However, it is respectfully submitted that the Examiner's statement that "a holding of lack of unity for the groups of claims is proper when it can be shown that the SHARED special technical feature does not define a contribution over the prior art" (see page 2, second paragraph of Paper #10) is flawed. Rule 13.2 of the PCT simply does not state or imply that the shared technical feature considered by itself must define over the prior art, but rather the contribution the shared technical feature makes to each claimed invention must define a contribution over the prior art, where each claimed invention is considered as a whole. In other words, the shared technical feature must be considered in the entire context of each claimed invention to determine whether a contribution over the prior art exists. Contrary to the Examiner's assertion, a prima facie showing has not been made by the Examiner in either restriction requirement as to whether the shared technical feature defines a contribution for each claimed invention, considered as a whole, over the prior art.

The Examiner is again requested to study the examples provided for guidance to examiners in Appendix AI of the MPEP that clearly illustrate unity of invention exists for two or more groups of inventions having a common special technical feature. In particular, Example 6

(at page AI-58 of the MPEP), which is completely analogous with the present application, clearly shows that unity of invention exists between method, apparatus and product claims 1, 2, 4 and 6, because each of these claims recites the common special technical feature of tangential fuel inlets.

As previously noted in the response to the first restriction requirement, each group of claims of the present invention recites a common special technical feature relating to heating of plural-component fibers to cause differential heat shrinkage of first and second materials in the fibers such that the fibers separate into segments.

Independent claims 42 and 70 of Group IV recite apparatuses including a heating unit configured to apply heat to plural-component fibers (either to heat a fiber web, as recited in claim 42, or to heat an array of fibers prior to deposition on a web-forming surface, as recited in claim 60) to cause differential heat shrinkage of first and second materials in the plural-component fibers, such that segments of the plural-component fibers comprising the first material separate from segments of the plural-component fibers comprising the second material.

Independent claim 91 of Group I recites a plural-component fiber comprising first segments comprising a first material component and second segments comprising a second material component, where the first segments are separable from second segments by application of heat that causes differential heat shrinkage of the first and second component materials.

Independent claim 78 of Group II recites a nonwoven fabric comprising first fiber segments comprising a first material, and second fiber segments comprising a second material having a heat shrinkage different from a heat shrinkage of the first material, where the first and second fiber segments have been at least partially separated by differential shrinkage induced by heat.


Finally, independent claims 1 and 22 of Group III recite methods of forming a nonwoven fabric from a process employing fiber splitting in line with fiber extrusion, including the step of applying heat to plural-component fibers (either after forming a web of the fibers, as recited in claim 1, or prior to forming a web of the fibers, as recited in claim 22) to cause separation between segments of the plural-component fibers comprising a first material and segments of the plural-component fibers comprising a second material due to differential heat shrinkage of the first and second materials.

Since each of Groups I-IV recites the previously noted common special technical feature, it is respectfully submitted that these groups all satisfy the unity of invention requirement of PCT Rules 13.1 and 13.2 and thus should not be restricted. Therefore, it is submitted that both restriction requirements are improper and should be withdrawn.

In view of the foregoing, Applicant respectfully requests the Examiner to withdraw the restriction requirement and proceed with examination of claims 1-100. If the Examiner maintains the restriction requirements, Applicant requests both restriction requirements be made final so that a petition traversing the restriction can be timely submitted.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee for such extension is to be charged to Deposit Account No. 05-0460.

Respectfully submitted,

  
Andrew J. Aldag  
Registration No. 40,483

EPSTEIN, EDELL, SHAPIRO, FINNAN & LYTLE, LLC  
1901 Research Boulevard, Suite 400  
Rockville, Maryland 20850-3164  
(301) 424-3640

Hand-Delivered: August 19, 2002